

**Summary of Comments Received – Nebraska**  
**October 18, 2017**

**Comments from the State of Nebraska<sup>1</sup>**

**Federalism:**

- Nebraska requests that rulemaking move forward with input from the states; a new rule should recognize that states have primary responsibility for land use and water management.
- Supports developing a limited, clear, and predictable definition.

**The following are WOTUS:**

- The state supports Justice Scalia's plurality opinion; *relatively permanent streams and wetlands with a direct surface connection*.
  - This opinion provides a clear approach that the regulated public can understand.
  - Further definition of the term "relatively permanent" is needed and should allow for regional variation.

**The following are NOT WOTUS:**

- "Waters that are properly under state control and are excluded from federal jurisdiction such as, groundwater, agricultural waters including farm ponds, stock ponds, and irrigation ditches, and man-made dugouts, pits, and ponds used for irrigation where not connected to jurisdictional surface waters".

**Exemptions:**

- The economy of Nebraska centers around agriculture (production of crops and livestock). Nebraska objects to the unclear scope of the "normal farming exemption" under 33 U.S.C. 1344(f)(1).

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<sup>1</sup> Governor Pete Ricketts, Department of Environmental Quality, Department of Natural Resources, and the Department of Agriculture.

Discussion Questions for Nebraska

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## **Deliberative Process / Ex. 5**

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Agriculture-specific questions

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## **Deliberative Process / Ex. 5**

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